

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MAILED

APR 12 2002

Ex parte THOMAS J. HOLMAN

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Appeal No. 2001-1798
Application No. 09/023,172

ORDER REMANDING TO EXAMINER

On March 2, 2000, appellant filed an Information Disclosure Statement (IDS) (Paper No. 9). It is not clear from the record whether the examiner considered the IDS submitted or whether the examiner notified appellant of why his submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.

Also, appellant filed an amendment (Paper No. 13) dated August 28, 2000. On September 7, 2000, the examiner has indicated in an advisory action (Paper No. 14) that the amendment filed August 28, 2000 would be entered. A review of the file reveals that the amendment was not physically entered.

Appeal No. 2001-1798
Application No. 09/023,172

Appropriate action is required.

Accordingly, it is

ORDERED that this application be remanded to the examiner for: 1) consideration of the Information Disclosure Statement (Paper No. 9); 2) appropriate notification by the examiner to appellant of such consideration; 3) physical entry of the amendment filed August 28, 2000 (Paper No. 13); and 4) for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of this appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

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Appeal No. 2001-1798
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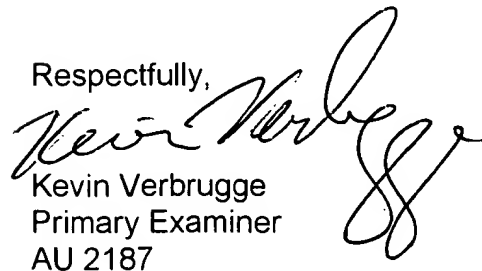
Response to Order Remanding to Examiner

In response to the Order Remanding to Examiner, attention is directed to the facsimile copy of IDS paper #9 (originally mailed 3/2/00) received in the Office on 4/24/00. Apparently the documents mailed 3/2/00 were inadvertently placed in a new file wrapper by OIPE and given a new serial number (09/517610). This was not discovered until the Examiner called the attorney in the case to see if a response to the rejection (paper #7) had been filed. The attorney then faxed in a copy of the papers that had been filed, along with supporting documentation. These fax papers became Request for Extension of Time #8, IDS #9, and Amendment A #10. A copy of the USPTO stamp with the new (mistaken) serial number of 09/517610 can be found on the page numbered "3" in paper #10.

In any case, IDS #9 was then considered and a copy mailed to Applicant attached to the final rejection #12. Sometime later, the original documents of papers #9 and #10 arrived (stamp date in TC 2100 is 4/13/01) and the papers were placed in the file as copies of the facsimiles.

Regarding the unentered amendment paper #13, the Examiner directed that the amendment be entered at the time of writing the Examiner's Answer. The Examiner will again request entry of the amendment before this case is returned to the Board.

Respectfully,


Kevin Verbrugge
Primary Examiner
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